



OFFICE OF THE COMPTROLLER
CITY OF ST. LOUIS



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DARLENE GREEN
Comptroller

DR. KENNETH M. STONE, CPA
Internal Audit Executive

Internal Audit Section

Carnahan Courthouse Building
1114 Market St., Room 642
St. Louis, Missouri 63101
(314) 622-4723
Fax: (314) 613-3004

December 15, 2009

Honorable Jennifer Joyce, Circuit Attorney
Carnahan Courthouse
Circuit Attorney's Office
1114 Market St., Room 401
St. Louis, MO 63101

RE: Payroll Distribution for the Circuit Attorney's Office (CAO) for the Pay Period Ending
September 26, 2009 (Project #2010-17)

Honorable Joyce:

The Internal Audit Section of the Comptroller's Office has conducted a payroll distribution observation of the Circuit Attorney's Office for the pay period ending September 26, 2009.

This review was made under authorization contained in Section 2, Article XV of the Charter, City of St. Louis, as revised and has been conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing*.

If you have any questions, please contact the Internal Audit Section at (314) 622-4723.

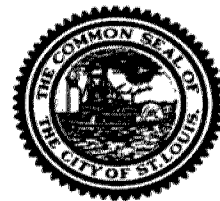
Sincerely,

Kenneth M. Stone

Dr. Kenneth M. Stone, CPA
Internal Audit Executive

Enclosure

cc: Honorable Darlene Green, Comptroller



CITY OF ST. LOUIS

CIRCUIT ATTORNEY'S OFFICE

**PAYROLL DISTRIBUTION REVIEW
FOR PAY PERIOD ENDING SEPTEMBER 26, 2009**

PROJECT #2010-17

DATE ISSUED: DECEMBER 15, 2009

**Prepared By:
The Internal Audit Section**



OFFICE OF THE COMPTROLLER

HONORABLE DARLENE GREEN, COMPTROLLER

**CIRCUIT ATTORNEY'S OFFICE
PAYROLL DISTRIBUTION REVIEW
FOR PAY PERIOD ENDING SEPTEMBER 26, 2009**

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INTRODUCTION

Background

The Circuit Attorney's Office is responsible for the prosecution of all felony and misdemeanor crimes. The Circuit Attorney's Office also enforces child support obligations on behalf of dependent children living within the City.

Purpose

The objectives of this review were to determine if:

- Employees were paid for actual hours worked
- Only eligible employees received wages
- Accruals and use of paid leave were accurate
- The reliability and integrity of time sheets and operational information are accurate

Scope and Methodology

The payroll distribution review was confined to evaluating actual hours worked, wages received by eligible employees, accuracy of vacation and sick leave use and accrued, and the reliability of time sheets. The procedures included inquiries of management and staff and reviews for compliance with applicable laws and regulations. Fieldwork was completed on October 27, 2009.

Exit Conference

An exit conference was conducted at Circuit Attorney's Office on November 17, 2009. Circuit Attorney's Office was represented at the exit conference by Honorable Jennifer Joyce, Circuit Attorney and Jane Darst, First Assistant Circuit Attorney. The Internal Audit Section was represented by Dr. Kenneth Stone, Internal Audit Executive; Dr. Ishmael Ikpeama, Internal Audit Supervisor; and Chance Key, Auditor.

Management's Responses

Management's responses to the observations and recommendations noted in this report were received from the Circuit Attorney's Office on December 7, 2009. The responses have been incorporated into this report.

OBSERVATIONS

Status of Prior Observations

The following observation has been resolved:

Opportunity To Ensure Employee Time Worked Is Accurately Documented,
Repeated From Payroll Distribution Project #2004-15, Observation #2 (**Resolved**)

Summary of Current Observations

The opportunity exists for the division to improve its operations and internal controls over its payroll activities. The following observations were noted:

1. Opportunity to comply with IRS Regulation
2. Opportunity to comply with Article XV, Section 2, of the Charter, City Of St. Louis
3. Opportunity for automation and standardization of time sheet

DETAILED OBSERVATIONS, RECOMMENDATIONS AND MANAGEMENT'S RESPONSES

1. Opportunity To Comply With IRS Regulation

It was determined that the Director of Child Support Unit, Circuit Attorney's Office is allowed to use a City of St. Louis vehicle as a courtesy and for commuting purposes in violation of IRS regulation. The use of this vehicle does not qualify as a non-personal use vehicle, and the commuting value is income subject to FICA and income tax withholding.

Based on the discussions with the Circuit Attorney's Office, we were informed that the Director of Child Support is a law enforcement officer, therefore, the vehicle driven would qualify as a non-personal use vehicle.

Internal Revenue Service (IRS), Treasury regulation #1.274-5T (6) (ii) defines a law enforcement officer of a governmental unit as:

- An individual responsible for the prevention or investigation of crime involving injury to persons or property (including apprehension or detention of persons for such crimes)
- An individual who is authorized by law to carry firearms, execute search warrants, and to make arrests
- An individual who regularly carries firearms

The non-compliance with IRS regulation #1.274-5T (6) (ii) is a violation of federal law. The City of St. Louis may be financially liable for not collecting FICA taxes and/or not making adequate withholding from wages.

IRS Publication #15 -B (2009), Employers Tax Guide To Fringe Benefits, the "Commuting Rule" states, "the employer determines the commuting value by multiplying each one-way commute (from home to work or from work to home) by \$1.50.

It is estimated (the Circuit Attorney's Office was restrictive in providing supporting documentation to make accurate determination) that as of October 1, 2009, the amount owed by the Director of Child Support Unit and the Circuit Attorney's Office is \$2,173.50 for vehicle use from October 1, 2006 – September 30, 2009.

The Circuit Attorney's Personnel Manual states, "Any personal use of Circuit Attorney's Office property, facilities, material, tools, equipment, and motor vehicles is prohibited.

Recommendations

It is recommended that:

- The Director of Child Support Unit, Circuit Attorney's Office complies with IRS regulation #1.274-5T (d) (2) which requires that the employee maintain an

account book, diary, log, trip sheets which are sufficient to establish the use of City vehicles

- The Circuit Attorney's Office updates and provides detailed policy and procedures on the use of City vehicles to its employees
- The Circuit Attorney's Office should reimburse to the City of St. Louis \$2,173.50 for use of the City vehicle from October 1, 2006 through September 30, 2009.

Management's Response

- *The Circuit Attorney's Office currently maintains log books for City vehicles. The City auditors were provided an opportunity to review these logs books and we will continue to maintain them.*
- *We will review our procedures to identify any needed changes to the Circuit Attorney's Office Use of Vehicle Policy.*
- *The Circuit Attorney's Office will implement the City auditor's recommendation of including the commuting value in appropriate employees' income.*

2. Opportunity To Comply With Article XV, Section 2, Of The Charter, City Of St. Louis

There were delays in receiving information and gaining access to payroll records. Thus, there were delays in conducting auditing procedures necessary to determine adequacy of internal controls over payroll records and procedures.

Article XV, Section 2, of the Charter, City of St. Louis, states, "the Comptroller shall be the general accountant and auditor of the City and the records of his/her Office shall show the financial operations and conditions, property assets, claims and liabilities of the City." He/she shall audit all pay rolls, accounts and claims against the City.

The Circuit Attorney's Office expressed concern about the Comptroller's Office authority to audit the Circuit Attorney's Office.

Any limitations on the audit scope and/or access to records may result in the inability to determine if:

- Employees were paid for actual hours worked
- Only eligible employees received wages
- Accruals and use of paid leave were accurate
- The reliability and integrity of time sheets and operational information are accurate

Recommendation

We recommend that the Circuit Attorney's Office comply with the City of St. Louis Charter which authorizes and requires the Comptroller's Office to audit all payrolls, accounts and claims against the city.

Management's Response

The Circuit Attorney's Office was provided less than two days notice by the Comptroller's Office before the beginning of the Comptroller's Fall 2009 audit process. When we asked the Comptroller's audit team why we were being audited within 1 ½ year's of our last favorable audit by the City, no clear rationale was provided. The audit staff said the audit was routine.

Members of the Circuit Attorney's Office were cooperative and complied by providing data, paperwork and information including all requested time sheets, leave time (sick and vacation) forms, wage information and schedules, for the payroll audit that, according to audit staff, was intended to review a two-week payroll time period ending September 26, 2009. According to the Comptroller's audit team, the only information that the Circuit Attorney's Office did not provide was:

- The make, model and serial number of certain City-owned cars dating back to 2002. This information was not provided due to confusion over the request, which at one point appeared to require 30 years worth of automotive records. As we have stated, we remain happy to provide to provide this information to the extent that we have it.*
- The job description for an employee, which was provided on November 17, 2009.*

During the audit, the Comptroller's audit team made ongoing requests for information that appeared to be well outside the scope of the purported two-week payroll audit. Requests included the entire office policy manual, information regarding management procedures, copies of 12 months of vacation and sick request form for approximately 38 employees, and copies of vehicle use records for all Circuit Attorney Office vehicles for 12 month time period. It is noteworthy that none of our pervious payroll audits requested these types of items. Nevertheless, these documents were all provided for review to the Comptroller's audit team.

Due to concerns about the unusual nature of the audit, the Circuit Attorney's Office sought an external legal opinion regarding the extent of the Comptroller's audit power with respect to independent county offices such as the Circuit Attorney's Office. This outside legal opinion stated, "... that the Comptroller's Office does not have the authority to audit independent county offices." Despite the questionable legal authority of the Comptroller's Office, the Circuit Attorney's Office remain cooperative and willing to demonstrate openness and transparency with the Comptroller's Office regarding all requests for information relating to payroll procedures.

Auditor's Comment

The audit scope was extended for testing in order to calculate vacation and sick time earned because the Circuit Attorney's Office payroll is not part of the City's payroll system. The testing of non-personal use of City vehicles was extended because no information was provided on personal use or commuting. Also, precedence has been set for auditing the Circuit Attorney's Office by prior audits.

3. Opportunity For Automation And Standardization Of Time Sheet

Good management and industry practices recommend automation of organization's time sheets for efficiency and effectiveness. The Circuit Attorney's Office has assigned five (5) timekeepers who process time sheets manually. Each timekeeper uses a different format for timesheets. Manual processing of time sheets increases the possibility of errors occurring. The Circuit Attorney's Office may not have considered the automation and standardization of time sheets.

Recommendation

It is recommended that the Circuit Attorney's Office automate the processing and standardize the format of its time sheets to improve efficiency and effectiveness.

Management's Response

The Circuit Attorney's Office is happy to take the recommendation of the audit and research the cost implications to the City of St. Louis for automating the time keeping process of the organization.